



## Clean Water Program

### Single Event Violation Business Process

#### Background

The Environmental Protection Agency (EPA) published a final regulation that requires the electronic reporting and sharing of Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program information. The regulation will help provide greater clarity on who is and who is not in compliance, as well as enhance transparency by providing a complete and accurate, nationally consistent set of data about the NPDES program. The final rule, known as the NPDES Electronic Reporting Rule, became effective December 21, 2015.

Phase 1 of the NPDES Electronic Reporting Rule requires that authorized NPDES programs electronically transmit to EPA certain facility and permit information within one year after the effective date of the final rule, or by December 21, 2016. This includes information generated from compliance monitoring inspections, violation determinations and enforcement actions. Violations identified during compliance monitoring inspections are generally referred to as “single event violations” or SEVs.

EPA describes SEVs as:

*Single event violations are violations of the CWA’s NPDES requirements that are documented during a compliance inspection, reported by the facility, or determined through other compliance monitoring methods by the regulatory authority. Examples of single event violations include failure to obtain required permit, sampling wastewater in an unauthorized location, or an unauthorized wastewater bypass or discharge. Single event violations do not include violations generated automatically (e.g., effluent limit violation from a DMR, or compliance schedule violations) by the Integrated Compliance Information System for the National Pollutant Discharge Elimination System program (ICIS-NPDES).*

*Single event violations include one-time events and long-term violations. Single event violations are used by EPA to maintain and report the compliance status of a facility for violations that are not automatically flagged by the database. Methods of detection of single event violations include inspections; information collection requests; state/tribal referrals; DMR comments; annual reports, non-compliance reports, and other reports required under the permit, enforcement order, or regulation; facility self-audits; and citizen complaints. In the case of unpermitted facilities, single event violations may be entered in response to violations of CWA NPDES regulations.*

#### Objectives

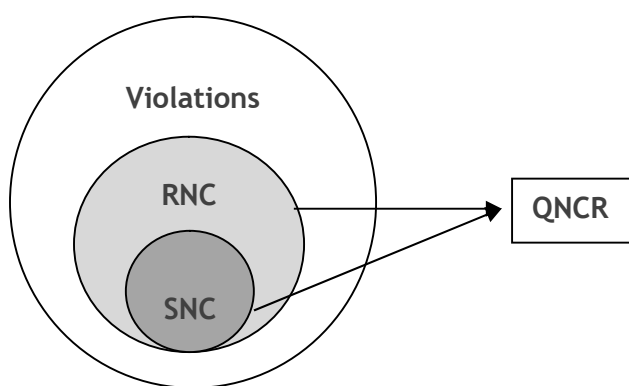
The objectives of this business process are to:

1. Establish a data entry process for entering SEVs into ICIS-NPDES; and
2. Establish practices that will be followed to track and manage SEVs in ICIS-NPDES.

## Evaluating Violations

Following a compliance inspection or review of other information that establishes an SEV has occurred, the Division or Environmental Agriculture Program will evaluate the severity of each violation identified. Any verified deficiency identified during an inspection or review of other information constitutes a violation (e.g., SEV).

A subset of these violations that meet specific, quantifiable reporting criteria or are of sufficient concern are required by federal regulations at 40 CFR §123.45 to be reported to EPA, and are thereby referred to as “reportable non-compliance” or RNC. A subset of instances of RNC that are of sufficient magnitude and/or duration to be considered a priority for regulatory review and response are referred to as “significant non-compliance” or SNC. The figure below illustrates the universe of RNC and SNC violations.



RNC/SNC violations at permitted facilities designated as “majors” are included in EPA’s Quarterly Noncompliance Report (QNCR). For more information on the QNCR, staff can consult the Clean Water Program’s *Enforcement Management System* (May 1, 2016).

Once an SEV is identified and documented, the Division or Environmental Agriculture Program, as applicable, must determine whether the SEV constitutes RNC and then whether the SEV also constitutes SNC. The guidance below can be utilized to make RNC and SNC determinations.

## RNC Determination

RNC for single event violations (SEVs) is defined at 40 CFR §123.45 essentially as:

1. A violation of a permit limit, unauthorized bypass, unpermitted discharge, or pass-through of pollutants that causes, or has the potential to cause, a water quality problem or health problem;
2. Violations of any compliance schedule milestones (except those already tracked in ICIS-NPDES) by 90 days or more;
3. Failure of the permittee to provide reports (except those already tracked in ICIS-NPDES) within 30 days of the due date specified in a permit or enforcement order;



4. Instances when the required reports provided by the permittee are so deficient or incomplete as to cause misunderstanding or impede the review of the status of compliance; and
5. Violations of any narrative requirements of permits which are of substantial concern to the Division.

### SNC Determination

Once an SEV is determined to meet the definition of RNC, the Division or Environmental Agriculture Program will evaluate whether the SEV also meets the criteria of SNC as outlined in the *Enforcement Management System (May 1, 2016)* or further described here.

The following categories of SEVs, upon case specific evaluation of the facts, will generally be considered by the Division and the Environmental Agriculture Program to be SNC:

1. Sanitary Sewer Overflows (SSOs)
  - Any SSO greater than 50,000 gallons.
  - An SSO less than 50,000 gallons that results in:
    - An identified exceedance of a water quality standard;
    - A fish kill or fish advisory;
    - An impact to a drinking water source;
    - An impact to a primary recreation use (e.g., beach closure); and/or
    - An impact to an area disproportionately impacted by pollutants from multiple environmental pathways.
  - Multiple SSOs that significantly threaten an impact described above, or where the violator has failed to investigate and implement actions to limit or prevent ongoing overflows.
  - A failure to report an SSO as required.
2. Animal Feeding Operations, including Concentrated Animal Feeding Operations
  - Any significant unauthorized discharge.
  - No Nutrient Management Plan, Facility Management Plan, or other similar plan when one is required.
  - Failure to meet major milestones in a permit (except those already tracked in ICIS-NPDES) by 90 days or more.
  - Any other regulatory or permit violations that meet the threshold of an enforcement response per the Division's Animal Feeding Operations Enforcement Response Guide.
3. Stormwater (associated with Industrial Activities) and Municipal Separate Storm Sewer System (MS4)
  - Any significant unauthorized discharge or operation without a stormwater permit when one is required.
  - Failure to meet major milestones in a permit (except those already tracked in ICIS-NPDES) by 90 days or more.



- Any other permit violations that meet the threshold of an enforcement response per the Division's Stormwater Enforcement Response Guide.

#### 4. Control Regulation Authorizations

- Any unpermitted discharge or operation without an authorization/notification as required by the applicable control regulation.
- Significant violations of narrative control regulation or authorization requirements. Examples include: lack of or substantially inadequate implementation documentation; substantial failure to implement or maintain control measures; substantial failure to perform required monitoring, including self inspections.
- Failure to meet major milestones in a control regulation or authorization (except those already tracked in ICIS-NPDES) by 90 days or more.
- Any other regulation/authorization violations (except those already tracked in ICIS-NPDES) that meet the threshold of a formal enforcement response per the Division's Enforcement Response Guides.

#### 5. Other Unpermitted Discharges

- Any unauthorized bypass, unpermitted discharge, or pass-through of pollutants which causes or has the potential to cause a water quality problem (e.g., fish kill, oil sheen) or human health problem (e.g., beach closure, fishing ban, or other restrictions of beneficial uses).
- Failure to report a spill or discharge event as required.
- Failure to submit required report or report is late by 30 days or more.

#### 6. Other Narrative Conditions

- Any failure to start construction, end construction, or initiate planning of treatment expansion within 90 days of required date.
- Failure to meet major milestones in a permit (except those already tracked in ICIS-NPDES) by 90 days or more.
- Any failure to implement a Whole Effluent Toxicity (WET) automatic compliance response or submit a required WET report (e.g., TIE/TRE or corrective action plan/schedule) within 60 calendar days of the required date.
- Any other permit violations that meet the threshold of an enforcement response (except those already tracked in ICIS-NPDES) by 90 days or more) per the Division's Enforcement Response Guides.

*Note: Other violation types not listed above may be deemed SNC at the discretion of the Division or the Environmental Agriculture Program.*

### [Data Entry](#)

Upon making a determination that the severity of an SEV is reportable/moderate (RNC) or significant (SNC), the SEV will be entered and tracked in ICIS-NPDES by the work unit who reviewed the SEV and made the SNC determination (e.g., Field Services Section, Compliance Unit, Enforcement Unit or Environmental Agriculture Program). The work unit will either directly enter the SEV into ICIS-NPDES or coordinate its entry with the Division's Data Management Workgroup.

To enter an SEV in ICIS-NPDES:

1. Log on to ICIS-NPDES
2. Click on “National Pollutant Discharge Elimination System (NPDES)”
3. Under NPDES Violations, click on “Add Single Event Violation”
4. Enter the specific information for the SEV

The SEV data entry fields include:

**NPDES ID** - If the violation is associated with an unpermitted discharge, Data Management (or the Environmental Agriculture Program for CAFOs) will assign a number with a “COU” prefix.

**Violation Code** - In ICIS-NPDES, the Violation Code is assigned from a search menu of available codes (attached).

**Single Event Violation Start Date** - The date on which the violation occurred/started or, if that is not known, the date on which the violation was discovered.

**Single Event Violation End Date** - For any single event violation with a known duration longer than one day, a violation end date should be entered. If the SEV occurred for only one day, this should be left blank.

**RNC Detection Code** - (*Note: RNC is “reportable noncompliance.” SNC is a subset of RNC - i.e., the most significant form of RNC.*) One of the following RNC Detection Codes should be entered, which are the only available codes for SEVs:

#### RNC Violations

- E - “Manual 2F - Permit Narrative” - Permit narrative condition violation
- F - “Manual 2G - Violation of Concern” - Permit violation of concern
- Q - “Manual 2B - Pretreatment” - Pretreatment violation
- W - “Manual 2E - Deficient Report” - Deficient reports/records violations

#### SNC Violations

- B - “Manual 2A4 - Pass-Through” - Pass-through of pollutants
- G - “Manual 2A1 - Effluent Violation” - Category II permit limit violation
- I - “Manual 2A2 - Unauthorized Bypass”
- J - “Manual 2A3 - Unpermitted Discharge”

EPA’s Single Event Violation Data Entry Guide notes that RNC Detection Code “B” should generally be applied for Wet Weather SNC violations.

**RNC Detection Date** - The date the Division or Environmental Agriculture Program determines that RNC/SNC criteria have been met. EPA notes, “typically via a management review of inspector findings, etc.”

**RNC Resolution Code** - If the SEV is resolved informally (i.e., without enforcement), one of the following RNC Resolution Codes should be entered:



- B - Resolved, “Manual by EPA/State/Tribal Action”

If the SEV is addressed and resolved through enforcement, one of the following RNC Resolution Codes should be entered:

- 6 - Resolved, “Manual Resolution by Enforcement Action”
- 7 - Resolved Pending, “Manual Resolved Pending - In Compliance with Formal Enforcement Action Order Requirement”
- 8 - Resolved Pending, “Manual Due to Formal Enforcement Action Formal Order”

Note: If the SEV is not resolved at the time of entry in ICIS, “1 NC - Unresolved NC” or “A NC - Manually Unresolved RNC” should be entered, as ICIS will not allow this field to be left blank.

**RNC Resolution Date** - The date the Division or Environmental Agriculture Program determines the SEV is resolved (i.e., corrected).

### Linking the SEV

If the SEV is identified during a compliance inspection, the SEV should be linked to the inspection event in ICIS-NPDES at the time of initial entry of the SEV.

If the SEV is addressed through a formal enforcement action, the SEV should be linked to the enforcement action in ICIS-NPDES at the time the enforcement action is issued.

### Compliance Follow-up

Once an SEV has been entered in ICIS-NPDES, resolution of the SEV should be tracked and recorded in ICIS-NPDES. If the SEV can be resolved through informal measures (i.e., without formal enforcement), the work unit that identified the SEV and made the SNC determination will be lead for resolving the SEV in ICIS-NPDES following the data entry guidance provided above. If the SEV is referred to the Clean Water Enforcement Unit for a formal enforcement action, the Enforcement Unit will take the lead for resolving the SEV in the database (regardless of whether an enforcement action is ultimately issued).

The Clean Water Enforcement Unit will periodically run and review a report of unresolved SEVs in ICIS-NPDES and follow-up with individual work units as needed.



## CW Program SEV Quick Reference Guidance

Typical Violation Types	RNC Detection Code	RNC Resolution Code
Any wet weather violation (i.e., SSO, stormwater or CAFO violation)	B - if significant (SNC) E - if moderate (RNC)	1 - if unresolved B - if resolved  FOR ENFORCEMENT USE ONLY:  6 - if resolved due to enforcement action 8 - if resolved pending due to issuance of enforcement action
Unpermitted discharge (except wet weather)	J - in all cases	
Unauthorized bypass	I - in all cases	
Pass-through of pollutants	B - in all cases	
Management practice violation, improper operation and maintenance	B - if significant (SNC) E - if moderate (RNC)	
Reporting and record keeping violation, failure to submit required report	G - if significant (SNC) W - if moderate (RNC)	
Monitoring violations, improper analysis, lab error, improper sample storage, invalid/unrepresentative sample	G - if significant (SNC) E - if moderate (RNC)	
Pretreatment violation	B - if significant (SNC) Q - if moderate (RNC)	
Biosolids violation	B - if significant (SNC) F - if moderate (RNC)	
Other violation	G - if significant (SNC) F - if moderate (RNC)	